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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. 226

J. LAURITZEN,

Petitioner,

against

EVALD JOHANN LARSEN,

Plaintiff-Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

BRIEF OF *AMICI CURIAE* ON BEHALF OF THE "FRIENDS OF ANDREW FURUSETH LEGISLATIVE ASSOCIATION", AND CONSENT TO FILE BRIEF.

SILAS BLAKE AXTELL,
Counsel for *Amici Curiae*.

DAVID D. ERROLL,
of Counsel.

INDEX

PAGE

Preliminary Statement 1

POINT I—Petitioner's contention that the Jones Act is not applicable and was not intended by Congress to be made applicable to foreign seamen on foreign ships is in conflict with the unanimous opinion of the federal courts and with the rules of statutory construction 3

POINT II—Contrary to petitioner's contention, the fact that recovery is sought for a negligent act committed on the high seas does not remove the case at bar from the operation of the federal statute .. 6

POINT III—Petitioner's contention that "accepted law and custom" can or should override a federal statute enacted for the specific reason of amending the "accepted law and custom" referred to is without merit 9

POINT IV—An analysis of the Sonnesen case demonstrates that it was rested upon authorities which do not support the decision. Consequently the Sonnesen case cannot be relied upon as convincing authority 12

POINT V—Petitioner's contention that the case at bar is distinguishable on the facts from the rule established in *Taylor* and *Kyriakos* cases, is without merit because the facts relied on by petitioner are not jurisdictional and hence have no bearing on the issue 17

CONCLUSION—Since the holding below is consistent with the overwhelming weight of authority interpreting the Jones Act, and since petitioner has failed to assign a single ground of any legal validity in support of a reversal, the decision below should be affirmed 18

Table of Authorities

PAGE

Anderson v. *Panama Transp. Co.* (S. D. N. Y., 1942), 1942 A. M. C. 43 and 744 (neither elsewhere reported) 14

Arthur v. *Compagnie Generale Transatlantique*, 1934, 72 F. 2d 662 (C. C. A. 5th) 2

Atlantic Transport Co. v. *Imbrovek*, 1913, 234 U. S. 52 7

Chelentis v. *Luckenbach*, 1918, 247 U. S. 372, 38 S. Ct. 501, 62 L. Ed. 1171 9

Cunard S. S. Co. v. *Mellon*, 1923, 262 U. S. 100, 43 S. Ct. 504, 67 L. Ed. 894 11

Farrell v. *United States*, 336 U. S. 511, 69 S. Ct. 707, 93 L. Ed. 850 10

Gambera v. *Bergoty*, 132 F. 2d 414; cert. denied 319 U. S. 742 ..... 2, 16

Gerradin v. *United Fruit Co.* (E. D. N. Y., 1931), 51 F. 2d 417; 1931 A. M. C. 1425; affirmed (C. C. A. 2d, 1932) 60 F. 2d 927; 1933 A. M. C. 81, certiorari denied, 287 U. S. 642 ..... 13, 16

Gompers v. *United States*, 233 U. S. 604, 610 4

Hanna Nielsen, The, 273 Fed. 171, cert. denied 257 U. S. 652 16

Kyriakos v. *Goulandris*, 1945, 151 F. 2d 132 (C. C. A. 2nd) 2, 5, 16

Larsen v. *Lauritzen*, 1952, 196 F. 2d 220 (at bar) ... 2

Lottawanna, The, 21 Wall. 558, 88 U. S. 558, 22 L. Ed. 654 10

O'Neill v. *Cunard SS. Co.*, 160 F. 2d 446, cert. denied 322 U. S. 773 ..... 16, 18

PAGE

Panama R. R. Co. v. *Johnson*, 1924, 264 U. S. 375, 44 S. Ct. 391, 68 L. Ed. 748 ..... 1, 8
Patterson v. *Bark Eudora*, 1903, 190 U. S. 169, 23 S. Ct. 821, 47 L. Ed. 1002 ..... 8, 17
Paula, The, 1937, 91 F. 2d 1001 18
Pettersson v. *Maersk* (S. D. N. Y., Cal. 1919) 17
Plymouth, The, 3 Wall. 20 7

Resigno v. *Jarka*, 248 N. Y. 225, 1928 A. M. C. 1001 (no application for certiorari) 4, 15, 16

Slater v. *Mexican National R. R. Co.*, 1903, 194 U. S. 120, 24 S. Ct. 581, 48 L. Ed. 900 7
Sonnesen v. *Panama Transport Company*, 1948, 298 N. Y. 268, cert. denied in 337 U. S. 919, 82 N. E. 2d 569 ..... 2, 12, 13, 14, 15, 16
Stewart v. *Pacific Steam Navigation Co.*, 1924, 3 F. 2d 329, 1950 A. M. C. 147 ..... 2, 7
Strathern v. *Dillon*, 252 U. S. 348, 40 S. Ct. 350, 64 L. Ed. 607 5

Taylor v. *Atlantic Maritime Co.*, 1950, 179 Fed. 2d 597, cert. denied in 341 U. S. 915 ..... 2, 9, 12, 18

Uravic v. *Jarka* (1929), 252 N. Y. 530 15
Uravic v. *Jarka*, 1931, 282 U. S. 234, 51 S. Ct. 111, 75 L. Ed. 312 ..... 4, 15, 16

Western Maid, The, 1922, 257 U. S. 419, 42 S. Ct. 159, 66 L. Ed. 299 10

STATUTE INVOLVED

Merchant Marine Act of June 5, 1920, 41 Stat. 1007, Title 46, U. S. Code, Sec. 688, Sec. 33 (Jones Act) 1

OTHER AUTHORITIES

PAGE

American Maritime Cases, Arnold W. Knauth 12

Benedict on Admiralty, Arnold W. Knauth 12

Congressional Record, October 21, 1913, 63rd Congress, first session 5

Oppenheim, International Law, 7th Ed., Vol. 1, page 548 ..... 10, 11

State Reporter, The, 298 N. Y. 263, 265 13

United States Coast Guard 11

United States Neutrality Law 13

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J. LAURITZEN,

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

Preliminary Statement

The case at bar presents only one question: the extent of the coverage of Section 33 of the Merchant Marine Act of June 5, 1920, 41 Stat. 1007, Title 46, United States Code Section 688, known as the Jones Act.

The Jones Act has thus been on the books since 1920. Its constitutionality has not been questioned since *Panama R. R. Co.* v. *Johnson*, 1924, 264 U. S. 375, 44 S. Ct. 391, 68 L. Ed. 748. The admiralty courts of the United States have heretofore handed down innumerable decisions interpreting the scope and effect which Congress had intended to give to this statute. In litigation concerning claims of alien seamen against alien shipowners a weight of authority has been accumulated in a line of consistent

decisions by the federal courts, based upon sound, conservative legal doctrines.

Stewart v. *Pacific Steam Navigation Co.*, 1924, 3 F. 2d 329, at law 1950 A. M. C. 147;
Arthur v. *Compagnie Generale Transatlantique*, 1934, 72 F. 2d 662 (C. C. A. 5th);
Gambera v. *Bergoty*, 132 F. 2d 414, cert. denied in 319 U. S. 742;
Kyriakos v. *Goulandris*, 1945, 151 F. 2d 132 (C. C. A. 2nd);
Taylor v. *Atlantic Maritime Co.*, 1950, 179 F. 2d 597, cert. denied in 341 U. S. 915;
Larsen v. *Lauritzen*, 1952, 196 F. 2d 220 (at bar).

While the federal courts are in agreement, the only discordant note can be found in *Sonnesen* v. *Panama Transport Company*, 1948, 298 N. Y. 268, cert. denied in 337 U. S. 919, handed down by the New York Court of Appeals. Point IV below demonstrates why the *Sonnesen* case is unconvincing.

We are now told by the petitioner herein that the accumulation of the weight of authority cited above is merely the result of a perpetual comedy of errors; that on one cardinal point at least the admiralty courts of the United States have during all these years misread, misunderstood, and misapplied the Jones Act; and that the Supreme Court of the United States should reverse this line of decisions representing the weight of authority in the federal courts, in order to establish that, in its opinion, in creating the Jones Act, Congress had the intention to make a law which would abolish the requirement of uniformity in maritime legislation, and which would exempt alien shipowners, whose offices are lining Wall Street, from the operation of American laws and from the enforcement of American public policy. Can any court of the United States have more than one answer to this singular proposition?

All those whose vital interests are at stake in this case, but primarily the world community of seamen, will no doubt welcome the grant of a writ of certiorari in the instant case. In fact, a clear and authoritative adjudication by the highest tribunal is needed in order to remove for all time the wasteful complexity of unnecessary pleas to jurisdiction, and in order to make seamen in general, and particularly seamen in distress safe from Danish interpretations of American laws.

Since, in its vast array of argument and citations, petitioner herein has failed to assign a single ground of any legal validity, even remotely sufficient to show why the federal statute should not apply to the case at bar, it is respectfully submitted that the existing weight of authority represents the true and correct interpretation of the legislative intent behind the Jones Act; that this weight of authority should not be disturbed; that the Supreme Court of the United States should remove the point at issue from the realm of controversy; and that the judgment of the United States Court of Appeals for the Second Circuit, entered in this case May 2, 1952, should be affirmed.

POINT I

Petitioner's contention that the Jones Act is not applicable and was not intended by Congress to be made applicable to foreign seamen on foreign ships is in conflict with the unanimous opinion of the federal courts and with the rules of statutory construction.

Petitioner contends, in substance, that the Jones Act is not applicable to foreign vessels or foreign seamen, because it contains no specific provision for the express inclusion of foreign vessels or foreign seamen within the orbit of its operation.

It is submitted that this contention is without merit. In the first place, the Jones Act is a remedial statute and should therefore be liberally construed, whereas petitioner's thesis implies that the interpretation should be "*strictissimi juris*". And even "*strictissimi juris*" does not mean that "all" requires additional description in order to mean "everybody". On this point, Mr. Justice Holmes' admonition in *Gompers* v. *United States*, 233 U. S. 604, 610, seems to provide the true approach:

> "* * * the provisions of the Constitution are not mathematical formulas having their essence in their form; they are organic living institutions transplanted from English soil. Their significance is vital, not formal; it is to be gathered not simply by taking the words and a dictionary, but by considering their origin and the line of their growth."

Incidentally, when, in *Resigno* v. *Jarka*, 248 N. Y. 225, the Court of Appeals of New York made an attempt to establish a doctrine similar to petitioner's thesis, it was squarely overruled by a unanimous decision of the Supreme Court of the United States in *Uravic* v. *Jarka* (1931), 282 U. S. 234, 51 S. Ct. 111, 75 L. Ed. 312, and the opinion by Mr. Justice Holmes, referring to the Jones Act, states, *i. a.*:

> "The language of the statute is general * * * the question is, why general words should not be generally applied."

Learned Hand, Ch. J., one of the most eminent experts of admiralty law that ever existed, has left no room for doubt in respect of his opinion on the subject.

Time and again, defendant shipowners have attempted to interpose pleas to jurisdiction based on technicalities such as the title of the statute. As a matter of principle

the Supreme Court of the United States decided the question in *Strathern* v. *Dillon,* 252 U. S. 348, 40 S. Ct. 350, 64 L. Ed. 607. In its application to the Jones Act, the matter was disposed of conclusively by Augustus Hand, J., in *Kyriakos* v. *Goulandris,* 1945, 151 F. 2d 132.

Historically, the Congressional record provides ample support for the position adopted by the federal courts. We limit ourselves to just one example. At page 43 of the Congressional Record, October 21, 1913, 63rd Congress, first session, Senator Fletcher (Dem., Florida), one of the supporters of the La Follette Seamen's Act, made the significant statement that one of the three cardinal aims of the Act then under debate was to equalize the cost of operating vessels, foreign and domestic, taking cargo or passengers from ports of the United States.

On the other hand, an attempt to read the Congressional intent behind the Jones Act solely from preceding legislation, which the Jones Act was avowedly intended to amplify, is no guide to its meaning and apt to be misleading. So is petitioner's attempt to find support for its thesis by means of a dissection of the Act of 1915. However painstaking the effort, it only leads to "reasoning by interpolation", and ends in the conclusion that the past was bound to nullify the effects of later enactments.

While no canon of statutory construction can be invoked by petitioner in support of its thesis, there is a final and conclusive argument *in contra.* When a statute is susceptible of two interpretations, one of which is reasonable, and the other absurd, the courts will presume that the legislature intended to give the enactment its reasonable effect. Now, assuming, *arguendo,* that the Jones Act is susceptible of an interpretation other than that hitherto given it by the federal courts, we find that the statute would be absurd, if it were not intended to be applied with uniformity to national and foreigner alike. Surely, Congress

could not have intended to impose a burden upon the American merchant marine, based upon reasons of public policy, while at the same time exempting the foreign shipowners, engaged in competition with American shipping, from the requirements of American public policy sought to be imposed. What would be the reason for such an extravagant and unusual discrimination in favor of the alien? And what claim do the foreign shipowners have to a position of privileged extraterritoriality? Is not equality enough? Would not, in fine, the natural effect of a law so conceived, and applied, end in the destruction of the welfare of those whom Congress had set out to protect?

Fortunately, the federal courts, concerned with the administration of justice according to substance, have had no misgivings as to the Congressional intent, and at the present stage only the final approbatur of the Supreme Court of the United States is needed in order to remove the matter for good from the realm of controversy.

It is surely not too much to say that upon this point the existing weight of authority stands up to every fair and reasonable test.

POINT II

Contrary to petitioner's contention, the fact that recovery is sought for a negligent act committed on the high seas does not remove the case at bar from the operation of the federal statute.

Petitioner's contention boils down to a thesis that if the cause of action sounds in tort, then there is no law to govern it other than the law of *lex loci delicti.* Petitioner does not seem to remember that in its next point it will claim to be bound by the law of the flag, and it provides us with no explanation as to how its first claim can be sustained in the face of the second.

In quoting decisions like *Slater* v. *Mexican National R. R. Co.*, 1903, 194 U. S. 120, 24 S. Ct. 581, 48 L. Ed. 900, petitioner has lost sight of the fundamental distinction between "tort" and "maritime tort". As to the latter, in *Atlantic Transport Co.* v. *Imbrovek*, 1913, 234 U. S. 52, Chief Justice Hughes aptly points out that when courts speak of "locality" in connection with maritime torts, they do not mean Philadelphia or Havana, but that the tort has been committed upon "the high seas or other navigable waters. *The Plymouth*, 3 Wall. 20."

It must be assumed that petitioner does not contend that the Jones Act is not to be applied to torts, *i.e.* negligent acts, committed upon the high seas, although we readily admit that the statute does not mention the word "high seas" any more than it does "foreign ships" or "foreign seamen".

We submit that in the presence of valid legislation such as the Jones Act, the approach must be entirely different. The question is, not what law of what place does apply, but whether the Jones Act applies to the case or not. If the Jones Act does apply, there is no need to go further afield. And, as to the principles governing the applicability of the Jones Act, we submit the following:

The scope and effect of a federal statute depends upon the legislative intent, and upon the jurisdictional and constitutional power of the legislators.

As to the Congressional intent behind the Jones Act, Judge Learned Hand had this to say in *Stewart* v. *Pacific Steam Navigation Co.*, 1924, 3 F. 2d 329, 1950 A. M. C. 147:

> "There is no indication of any purpose to limit it (the Jones Act) to United States corporations, and it would be highly unreasonable to impute such purpose to Congress, for the result would be not only to deprive American seamen of the protection which the act was meant to give them, when serving on for-

eign ships, but to give advantage to such ships as against American ships. We all know that the purpose of Congress was directly the opposite."

And as to the power of Congress to extend the effect of the Jones Act to circumstances such as presented at bar, this Court has held in *Patterson* v. *Bark Eudora*, 1903, 190 U. S. 169, 23 S. Ct. 821, 47 L. Ed. 1002:

> "* * * we are of the opinion that it is within the power of Congress to protect all sailors shipping in our ports on vessels engaged in foreign or interstate commerce, whether they belong to citizens of this country or of a foreign nation. * * *"

The application *vel non* of the Jones Act, and for that matter of any statute, depends upon the presence of circumstances which it was intended to cover, known as jurisdictional facts. Where such jurisdictional facts are present, the applicability of the statute cannot be drawn into question. What the requirement as to the jurisdictional facts is to be, may be provided in the law itself, or determined by judicial interpretation. Since, in *Patterson* v. *Bark Eudora* (*supra*), this Court declared the power of Congress to protect "all sailors shipping in our ports", and since, in *Panama* v. *Johnson* (1924), 264 U. S. 375, 44 S. Ct. 391, 68 L. Ed. 748, this Court stated:

> "The statute extends territorially as far as Congress can make it go, and there is nothing in it to cause its operation to be otherwise than uniform."

Nothing could be more logical and consistent with the views manifested by this Court than the rule laid down by the federal admiralty courts that whenever a seaman is signed on within the territorial jurisdiction of the United States, this constitutes the jurisdictional fact which entitles him to claim under the Jones Act, regardless of his

nationality, the nationality of the owner, or the locus of the injury, on the ground that when the contract is entered into in the United States, the statute is read into it as a matter of public policy fixed by the Congressional intent.

Taylor v. *Atlantic Maritime Co.* (1950), 179 F. 2d 597, cert. denied in 341 U. S. 915.

We submit that the question is first of all "does the Jones Act apply to the case?" If yes, all other speculation is idle. Petitioner's argument that the Jones Act applies only in cases where no other law could apply is novel and entirely unwarranted.

POINT III

Petitioner's contention that "accepted law and custom" can or should override a federal statute enacted for the specific purpose of amending the "aceepted law and custom" referred to is without merit.

It can be expected that judicial notice can be taken of so notorious a fact as that the purpose of the Jones Act was to correct the traditional harshness of the common law of the sea, and to supply the deficiencies of former legislation in the field, demonstrated, for example in *Chelentis* v. *Luckenbach*, 1918, 247 U. S. 372, 38 S. Ct. 501; 62 L. Ed. 1171. If Congress had the power to enact it, then it becomes well nigh axiomatic that the statute came into being for the declared and manifest purpose of overriding the former common law of the sea.

It is just as axiomatic that when a valid federal statute, and a common law principle like the rule of the law of the flag are in conflict, there can be no question as to the supremacy of the federal statute, the law of the United States.

No principle of maritime law has any validity unless it is accepted by the United States.

The Lottawanna, 21 Wall. 558, 88 U. S. 558, 22 L. Ed. 654;
The Western Maid, 1922, 257 U. S. 419, 42 S. Ct. 159, 66 L. Ed. 299.

In 1949 Mr. Justice Jackson expressed the same principle in *Farrell* v. *United States*, 336 U. S. 511, 69 S. Ct. 707, 93 L. Ed. 850:

> "The law of the sea is in a peculiar sense an international law, but application of its specific rules depends upon acceptance by the United States."

Assuming then that, as in the case at bar, the jurisdictional facts are present which make the Jones Act applicable, then the seaman claiming thereunder has a right to enforce his claim under the provisions of the federal statute, all Danish laws, and other "accepted laws and customs" to the contrary notwithstanding. The Federal Statute, Jones Act, overrides custom, foreign law and common law. If there remains any confusion on this point, it is because the petitioner seems to be more anxious to get around the law than at the law.

In its Summary of Argument petitioner speaks of "international repercussions". Whether or not this is an attempt to intimidate the courts of the United States is a question which we leave open. We submit, however, that there is no principle of international law which requires a sovereign country to assume ritualistic attitudes of senseless absurdity. Quite especially must the ancient rule of the law of the flag be subjected to careful scrutiny. Firstly, this rule has never been regarded as a "mystic overlaw", and has at all times been subjected to numerous exceptions. *Oppenheim*, International Law, 7th Ed. Vol. I, page 548.

Secondly, matters of internal economy of private merchant vessels have always been within the discretionary jurisdiction of the courts. *Cunard S. S. Co.* v. *Mellon*, 1923, 262 U. S. 100, 43 S. Ct. 504, 67 L. Ed. 894. Thirdly, conditions have changed beyond all recognition. Today foreign registry has often nothing to do with allegiance to a foreign sovereign whose symbol is the flag. Today foreign registry is being resorted to on an unprecedented scale by private shipowners as a device providing immunity from American taxes, from American safety laws, American wage standards, etc. The latest figures published by the U. S. Coast Guard, indicate that as of December 31, 1951, Panama, Liberia and Honduras had the following tonnage in their respective registries:

Panama	545 ships	5,386,000 DWT
Liberia	78 "	1,167,000 DWT
Honduras	79 "	576,000 DWT

In accordance with data published in *Fortune*, Vol. XLI, No. 5, May, 1950, at pages 51, 56 and 58, there have been in the period 1945-1949 altogether 405 transfers of American-built and American-owned ships to Panamanian registry. According to the same source, the wage differential alone yielded a saving of up to 25%. Shall these operators, hiding behind a foreign flag, be permitted to invoke before the American courts the immunities which they claim this flag should give them? Not only is there no valid reason why the courts of the United States should not take cognizance of the new conditions, but, on the contrary, in full accord with the traditional principle of international law "*de rebus sic stantibus*", there is every reason to approach a new situation in a new and more appropriate manner. *Oppenheim, International Law*, 7th Ed., Vol. 1, pages 844, *et seq.* To continue to apply the rule of the law of the flag mechanically would be to rest on an outdated formula at the expense of a vital national interest.

Petitioner can advance no doctrine which would require the United States courts to let it override federal statutory law.

POINT IV

An analysis of the *Sonnesen* case demonstrates that it was rested upon authorities which do not support the decision. Consequently the *Sonnesen* case cannot be relied upon as convincing authority.

As a preliminary to the analysis of *Sonnesen* v. *Panama Transport Co.*, 1949, 298 N. Y. 262, cert. denied 337 U. S. 919, we quote the following from a brief by Arnold W. Knauth, Esq., eminent admiralty lawyer and editor of "*Benedict on Admiralty*" and "*American Maritime Cases*", submitted in opposition to application for writ of certiorari in *Taylor* v. *Atlantic Maritime Co.*:

> "Petitioner relies chiefly on
>
> *Sonnesen* v. *Panama Transport Co.* (1949), 298 N. Y. 268, 82 N. E. 2d 569, certiorari denied, 337 U. S. 919.
>
> "It mentions that case three times, with heavy emphasis. Unless we are impressed by that State Court case, the rest of the petition is of no particular federal interest.
>
> "First we note that counsel for the employer in the *Sonnesen* case are also counsel for the employer in this *Taylor* case. They urge that the federal and admiralty court should follow a pattern set by a single and commonlaw State.
>
> "Next we note the astonishing fact that neither counsel in the *Sonnesen* case briefed or appealed on the question of jurisdiction as to alien seamen in alien ships. The arguments are well summarized in the

State Reporter, 298 N. Y. at 263-265. An inspection of the actual briefs shows that the Reporter's summaries are full and fair. So we discover that the New York State Court of Appeals decided the *Sonnesen* case on a point not briefed. In particular the employer, Panama Transport Co., a Panama company operating its ships under the Panama flag, did not challenge the jurisdiction of the State Court nor question the application of the Jones-FELA Act. It made only these four points: I. The Appellate Division had power to review the question and correctly dismissed the complaint for failure to prove a cause of action 'under any law'; II. The Appellate Division had power to set aside the verdict as against the weight of evidence; III. Plaintiff had failed to prove neglect in medical care; IV. Plaintiff had not proved any right to future maintenance.

"Now this Panama Transport Co. is well known to be an affiliate of the Standard Oil Co. of New Jersey. It was first formed to enable Standard Oil to operate tankers to England and France in open circumvention of our Neutrality Law in 1939 and 1940. The Panama flag was not affected by the U. S. Neutrality Law.

Some years before, the case of

> *Gerradin* v. *United Fruit Co.* (E. D. N. Y., 1931), 51 F. 2d 417; 1931 A. M. C. 1425; affirmed (C. C. A. 2d, 1932) 60 F. 2d 927; 1933 A. M. C. 81, certiorari denied, 287 U. S. 642,

had established that Americans who operated their boats under the flag of Honduras would have to apply the Jones-FELA Act to their relations with their seamen. The Standard Oil Co. did not propose to stand before the world as seeking to evade our seamen's laws when they put their tankers under the flag of Panama; they were merely getting around the

Neutrality Act. They were not trying to upset their general labor relations applicable to their great fleet of tankers. In fact, a search of the reported cases concerning the Panama Transport Co. as a litigant does not reveal any instance where that company—through the same counsel who present the petition for the Atlantic Maritime Co. here—urged the idea that the Jones Act does not apply to its Panama-flag seamen. It has litigated Jones Act cases without raising that point. See, for instance,

Anderson v. *Panama Transp. Co.* (S. D. N. Y., 1942), 1942 A. M. C. 43 and 744 (neither elsewhere reported).

"Of course the Jones Act applies to Panama Transport ships; the Company and its seamen would not have it otherwise. So we find the curious fact that the New York Court seized upon the point of jurisdiction and applicability to toss out the case, although neither party raised these questions, and it was an undesirable disturbance of the employer company's policy. In effect the *Sonnesen* case merely says that the Courts of New York State will not lend themselves to effectuating the Standard Oil Company's sound labor relations policy in dealing with its sick and injured seamen, under the federal Jones-FELA Act. Fortunately the federal courts are equally open in FELA cases, and in that field do not have to pay regard to the narrow and restrictive views of the State Court. It may be unwise and unfortunate for New York to close its state courts to these cases; but that is a matter of state policy which this Court may regret but which it need not necessarily feel moved to change. After all, from the State point of view, Sonnesen was not a New Yorker, and Standard Oil is not a New Yorker, nor is Panama Transport Co. New York may if it wishes reject the Jones Act right which the fed-

eral statute has offered to it, or limit it. That is all there is to the *Sonnesen* case.

"The *Sonnesen* case merely means that hereafter seamen will be careful to resort to the federal courts and to turn away from those state courts which may feel as New York does. The Jones Act gives the seamen the non-removable option as between the state and the federal court, it will be recollected.

"The hostility of the New York State courts to the idea of applying the Jones Act to events on a foreign ship is not new; they denied their workmen the Jones Act right in 1928 and 1929 in

> *Resigno* v. *Jarka* (1928), 248 N. Y. 225, 1928 A. M. C. 1101 (no application for certiorari),

where the longshoremen was killed on board a German ship, and in

> *Uravic* v. *Jarka* (1929), 252 N. Y. 530, wherein certiorari was applied for and granted, the decision being squarely reversed (1931) 282 U. S. 234, 1931 A. M. C. 239, opinion by Justice Holmes for the unanimous court;

in the *Uravic* case the longshoreman was killed on board a different German ship.

"Now very curiously the *Sonnesen* opinion cites the *Resigno* case to support its denial of a remedy to the seaman in the foreign ship, without the least remark that the Resigno doctrine was swept away three years later by the *Uravic* case in this Court. See 298 N. Y. at 267, middle.

"Thus the *Sonnesen* case appears as a State situation wherein, either by oversight or perhaps by dogged adherence to a view differing from the view of the United States Supreme Court, the State policy is set

against giving relief to these seamen under this federal law. But that is matter of State discretion. It is not a matter of particular interest to this Court."

In addition to the above, the following circumstances in connection with the *Sonnesen* case deserve attention:

the Court of Appeals, instead of following the law as established in *Gerradin* v. *United Fruit Co.*, 60 F. 2d 927, cert. denied 287 U. S. 642; *Gambera* v. *Bergoty*, 132 F. 2d 414, cert. denied 319 U. S. 742, and *Kyriakos* v. *Goulandris*, 151 F. 2d 132, which were all in point (because Sonnesen had signed on in the United States), chose to make its decision upon the authority of the following cases:

(a) *The Hanna Nielsen*, 273 Fed. 171, cert. denied 257 U. S. 652.

(b) *Resigno* v. *Jarka*, 248 N. Y. 225.

(c) *O'Neill* v. *Cunard SS. Co.*, 160 F. 2d 446, cert. denied 322 U. S. 773.

The Hanna Nielsen was not a Jones Act case, the accident had taken place prior to the enactment of the statute; the *Resigno* v. *Jarka* case had been overruled by the Supreme Court of the United States 17 years earlier in *Uravic* v. *Jarka*, 1931, 282 U. S. 234, *supra*.

O'Neill v. *Cunard* was not in point, because the decedent had signed the articles in England.

Under such circumstances the *Sonnesen* case is hardly an authority to be followed.

POINT V

Petitioner's contention that the case at bar is distinguishable on the facts from the rule established in *Taylor* and *Kyriakos* cases, is without merit because the facts relied on by petitioner are not jurisdictional and hence have no bearing on the issue.

Petitioner insists on disregarding, or on trying not to see the neuralgic point of the case. There is one and only one fact; which is material in the context. That is the fact that plaintiff-respondent was signed on in the United States.

This jurisdictional fact runs like a red line through the decisions, its importance was first stressed in the *Patterson* v. *Bark Eudora*, 1903, 190 U. S. 169, *supra*, and expressed by Learned Hand, Ch. J. in the *Taylor* case stating that the U. S. Court of Appeals for the 2nd Circuit has

> "construed the Jones Act as imposing its terms upon all owners who sign on crews in an American port."

If facts additional to the one essential to jurisdiction, signing in the United States, are to be considered, we would prefer one like *Pettersson* v. *Maersk* (Southern District of New York, Cal. 1919) where a Swedish national, an oiler, was totally and completely disabled from contact with the deadly poisonous carbon tetrachloride, due to negligence of employer. The accident happened within a few leagues of the New England coast on the trip between New York and Boston. The case of Peruvian seaman, Chero, blinded on a Honduran vessel owned by Greek nationals, seeking justice, challenges the attention, as does that of Rolf Jensen, Norwegian, permanently blinded in one eye by the negligent act of coservant on the steamship NORPALMA, Liberian corporation and flag.

For this reason the Jones Act was held to be inapplicable in *The Paula*, 1937, 91 F. 2d 1001, and in *O'Neill* v. *Cunard White Star, Ltd.*, 1947, 160 F. 2d 446. In both of the last mentioned cases the claimants had signed on abroad. For the same reason, the Jones Act applies to *Taylor* v. *Atlantic Maritime Co.* (*supra*) and to the case at bar, because in each one of these the claimant signed on in the United States. The other facts relied upon by petitioner are not material, in fact they are entirely irrelevant. Therefore we need not even follow petitioner's reasoning and say that the statute does not make any express provision as to a requirement of diversity of citizenship, that therefore it raises no bar for a Danish seaman to sue a Danish shipowner.

The judgment rendered below in the case at bar is unassailable on the facts or on the law.

CONCLUSION

Since the holding below is consistent with the overwhelming weight of authority interpreting the Jones Act, and since petitioner has failed to provide a more convincing interpretation of the Congressional intent behind the Jones Act, the decision below should be affirmed.

Dated: New York, N. Y., December 6, 1952.

Respectfully submitted,

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